IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 97 of 2007.

Judgement reserved on:

Date of decision: 1.8.2007.

State of HP **….. Petitioner..**

Vs.

Kuldeep Kashyap **…. Respondent.**

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1]

For the petitioner : **Mr. M.L.Chauhan, Addl. Advocate General.**

For the Respondents :

Kuldip Singh, Judge (Oral).

The State has filed this revision petition against the judgement dated 7.5.2007, passed by Juvenile Justice Board, Shimla, in case No. 15 of 2004, whereby juvenile Kuldeep Kashyap was acquitted for commission of offences, punishable under Sections 451, 323 read with Section 34 IPC and Section 506 IPC.

2. The prosecution case in brief is that complainant Parma Nand's house is adjacent to the building of Kuldeep Kashyap. On 20.12.2003, at about 9 a.m. the complainant Parma Nand was sweeping his house, whereas Kuldeep Kashyap, his brother and father were standing on the slab of their house. The complainant

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Whether the reporters of the local papers may be allowed to see the Judgment?

heard a noise of breaking of water pipes. He found that Kuldeep Kashyap and his father Punnu Ram were breaking those pipes. When complainant asked Punnu Ram and Kuldeep Kashyap why they were doing so, they trespassed over his house and extended threats to him and assaulted him. On raising alarm by complainant, Beli Ram PW 9 and Jia Lal PW 2 arrived on the scene and saved the complainant. On these facts, an FIR was registered and a charge-sheet against Kuldeep Kashyap was filed before the Board.

3. Notice of accusation was put to juvenile, under Sections 323, 451, 506 read with Section 34 IPC, who pleaded not guilty and claimed trial.

4. The prosecution led evidence and statement of Kuldeep Kashyap was recorded, under Section 313 of the Code of Criminal Procedure, where he denied the case of the prosecution.

5. The case of the prosecution is that juvenile Kuldeep Kashyap and his co-offender, while extending threats came to the complainant's house and inflicted injuries with brick pieces. The Board has appreciated the statements of the witnesses and the site plan Ex. PW 8/A. A specific finding has been recorded that the very genesis of the prosecution case is doubtful and speaks much about the credibility and truthfulness of the complainant.

6. The complainant in his examination-in-chief has stated that PW 2 and PW 9 had seen the incident, but they are not the residents of that locality. Both these witnesses have also admitted that they are the relatives of the complainant. There are ten to twelve houses adjacent to the house of the complainant, but none came to

the rescue of the complainant, though the alleged occurrence continued for about half an hour. The statements of complainant and PW 2 as well as PW 9 are not corroborated by the Investigating Officer. The injuries shown on the person of the complainant could be caused by fall as per Dr. Rakesh Kumar. The Board has rightly appreciated the material on record and rightly acquitted the juvenile. Hence, the petition is dismissed.

August 1, 2007. **(Kuldip Singh)**
(*Hem*) **Judge.**